

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2332
98TH GENERAL ASSEMBLY

6047S.07T

2016

AN ACT

To repeal sections 192.2260, 192.2405, 301.559, 339.100, 400.9-501, 562.014, 565.030, 565.032, 565.040, 571.020, 571.060, 571.063, 571.070, 571.072, 578.007, 579.015, and 632.520, RSMo, section 192.2410 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular session, section 557.021 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 563.046 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 563.046 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, section 565.188 as enacted by senate bills nos. 556 & 311, ninety-second general assembly, first regular session, section 568.040 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 569.090 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 577.001 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session, sections 577.010, 577.012, 577.013, and 577.014 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 577.037 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and section 577.060 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and to enact in lieu thereof

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

thirty-one new sections relating to restructuring the Missouri criminal code, with penalty provisions, an effective date for certain sections, and an emergency clause for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 192.2260, 192.2405, 301.559, 339.100, 400.9-501, 562.014, 2 565.030, 565.032, 565.040, 571.020, 571.060, 571.063, 571.070, 571.072, 578.007, 579.015, and 3 632.520, RSMo, section 192.2410 as enacted by house revision bill no. 1299 merged with senate 4 bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as 5 enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general 6 assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, 7 ninety-seventh general assembly, second regular session, section 557.021 as enacted by senate 8 bill no. 491, ninety-seventh general assembly, second regular session, section 563.046 as enacted 9 by senate bill no. 491, ninety-seventh general assembly, second regular session, section 563.046 10 as enacted by senate bill no. 60, seventy-ninth general assembly, first regular session, section 11 565.188 as enacted by senate bills nos. 556 & 311, ninety-second general assembly, first regular 12 session, section 568.040 as enacted by senate bill no. 491, ninety-seventh general assembly, 13 second regular session, section 569.090 as enacted by senate bill no. 491, ninety-seventh general 14 assembly, second regular session, section 577.001 as enacted by senate bill no. 254, ninety-eighth 15 general assembly, first regular session, sections 577.010, 577.012, 577.013, and 577.014 as 16 enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 17 577.037 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular 18 session, and section 577.060 as enacted by senate bill no. 491, ninety-seventh general assembly, 19 second regular session, are repealed and thirty-one new sections enacted in lieu thereof, to be 20 known as sections 192.2260, 192.2405, 192.2410, 192.2475, 301.559, 339.100, 400.9-501, 21 557.021, 562.014, 563.046, 565.030, 565.032, 565.040, 565.188, 568.040, 569.090, 571.020, 22 571.060, 571.063, 571.070, 571.072, 577.001, 577.010, 577.012, 577.013, 577.014, 577.037, 23 577.060, 578.007, 579.015, and 632.520, to read as follows:

192.2260. 1. Any person who violates any provision of sections 192.2200 to 192.2260, 2 or who, for himself or for any other person, makes materially false statements in order to obtain 3 a certificate or license, or the renewal thereof, issued pursuant to sections 192.2200 to 192.2260, 4 shall be guilty of a class A misdemeanor. Any person violating this subsection wherein abuse 5 or neglect of a participant of the program has occurred is guilty of a class [D] E felony.

6 2. Any person who is convicted pursuant to this section shall, in addition to all other 7 penalties provided by law, have any license issued to him under sections 192.2200 to 192.2260

8 revoked, and shall not operate, nor hold any license to operate, any adult day care program, or
9 other entity governed by the provisions of sections 192.2200 to 192.2260 for a period of three
10 years after such conviction.

192.2405. 1. The following persons shall be required to immediately report or cause a
2 report to be made to the department under sections 192.2400 to 192.2470:

3 (1) Any person having reasonable cause to suspect that an eligible adult presents a
4 likelihood of suffering serious physical harm and is in need of protective services; and

5 (2) Any adult day care worker, chiropractor, Christian Science practitioner, coroner,
6 dentist, embalmer, employee of the departments of social services, mental health, or health and
7 senior services, employee of a local area agency on aging or an organized area agency on aging
8 program, **emergency medical technician, firefighter, first responder**, funeral director, home
9 health agency, home health agency employee, hospital and clinic personnel engaged in the care
10 or treatment of others, in-home services owner or provider, in-home services operator or
11 employee, law enforcement officer, long-term care facility administrator or employee, medical
12 examiner, medical resident or intern, mental health professional, minister, nurse, nurse
13 practitioner, optometrist, other health practitioner, peace officer, pharmacist, physical therapist,
14 physician, physician's assistant, podiatrist, probation or parole officer, psychologist, social
15 worker, or other person with the responsibility for the care of [a person sixty years of age or
16 older] **an eligible adult** who has reasonable cause to suspect that [such a person] **the eligible**
17 **adult** has been subjected to abuse or neglect or observes [such a person] **the eligible adult** being
18 subjected to conditions or circumstances which would reasonably result in abuse or neglect.
19 Notwithstanding any other provision of this section, a duly ordained minister, clergy, religious
20 worker, or Christian Science practitioner while functioning in his or her ministerial capacity shall
21 not be required to report concerning a privileged communication made to him or her in his or her
22 professional capacity.

23 2. Any other person who becomes aware of circumstances that may reasonably be
24 expected to be the result of, or result in, abuse or neglect of [a person sixty years of age or older]
25 **an eligible adult** may report to the department.

26 3. The penalty for failing to report as required under subdivision (2) of subsection 1 of
27 this section is provided under section 565.188.

192.2410. 1. A report made under section 192.2405 shall be made orally or in writing.
2 It shall include, if known:

3 (1) The name, age, and address of the eligible adult [or person subjected to abuse or
4 neglect];

5 (2) The name and address of any person responsible for care of the eligible adult [or
6 person subjected to abuse or neglect];

7 (3) The nature and extent of the condition of the eligible adult [or person subjected to
8 abuse or neglect]; and

9 (4) Other relevant information.

10 2. Reports regarding persons determined not to be eligible adults as defined in section
11 192.2400 shall be referred to the appropriate state or local authorities.

12 3. The department shall maintain a statewide toll-free phone number for receipt of
13 reports.

192.2475. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **fire fighter; first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; or social worker has reasonable cause to believe that an in-home services client has
12 been abused or neglected, as a result of in-home services, he or she shall immediately report or
13 cause a report to be made to the department. If the report is made by a physician of the in-home
14 services client, the department shall maintain contact with the physician regarding the progress
15 of the investigation.

16 2. [When a report of deteriorating physical condition resulting in possible abuse or
17 neglect of an in-home services client is received by the department, the client's case manager and
18 the department nurse shall be notified. The client's case manager shall investigate and
19 immediately report the results of the investigation to the department nurse. The department may
20 authorize the in-home services provider nurse to assist the case manager with the investigation.

21 3. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection 1 of this section regarding the detection and report of abuse and
23 neglect pursuant to this section.

24 4.] Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 [5.] 3. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the

29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 [6.] 4. In addition to those persons required to report under subsection 1 of this section,
32 any other person having reasonable cause to believe that an in-home services client or home
33 health patient has been abused or neglected by an in-home services employee or home health
34 agency employee may report such information to the department.

35 [7.] 5. If the investigation indicates possible abuse or neglect of an in-home services
36 client or home health patient, the investigator shall refer the complaint together with his or her
37 report to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 [8.] 6. Reports shall be confidential, as provided under section 192.2500.

47 [9.] 7. Anyone, except any person who has abused or neglected an in-home services
48 client or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 [10.] 8. Within five working days after a report required to be made under this section
53 is received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 [11.] 9. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or she or any member of his or her family has made a report of any violation or
59 suspected violation of laws, standards or regulations applying to the in-home services provider
60 agency or home health agency or any in-home services employee or home health agency
61 employee which he or she has reasonable cause to believe has been committed or has occurred.

62 [12.] 10. Any person who abuses or neglects an in-home services client or home health
63 patient is subject to criminal prosecution under section 565.184. If such person is an in-home
64 services employee and has been found guilty by a court, and if the supervising in-home services

65 provider willfully and knowingly failed to report known abuse by such employee to the
66 department, the supervising in-home services provider may be subject to administrative penalties
67 of one thousand dollars per violation to be collected by the department and the money received
68 therefor shall be paid to the director of revenue and deposited in the state treasury to the credit
69 of the general revenue fund. Any in-home services provider which has had administrative
70 penalties imposed by the department or which has had its contract terminated may seek an
71 administrative review of the department's action pursuant to chapter 621. Any decision of the
72 administrative hearing commission may be appealed to the circuit court in the county where the
73 violation occurred for a trial de novo. For purposes of this subsection, the term "violation"
74 means a determination of guilt by a court.

75 [13.] 11. The department shall establish a quality assurance and supervision process for
76 clients that requires an in-home services provider agency to conduct random visits to verify
77 compliance with program standards and verify the accuracy of records kept by an in-home
78 services employee.

79 [14.] 12. The department shall maintain the employee disqualification list and place on
80 the employee disqualification list the names of any persons who have been finally determined
81 by the department, pursuant to section 192.2490, to have recklessly, knowingly or purposely
82 abused or neglected an in-home services client or home health patient while employed by an
83 in-home services provider agency or home health agency. For purposes of this section only,
84 "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section.
85 A person acts "knowingly" with respect to the person's conduct when a reasonable person should
86 be aware of the result caused by his or her conduct. A person acts "recklessly" when the person
87 consciously disregards a substantial and unjustifiable risk that the person's conduct will result
88 in serious physical injury and such disregard constitutes a gross deviation from the standard of
89 care that a reasonable person would exercise in the situation.

90 [15.] 13. At the time a client has been assessed to determine the level of care as required
91 by rule and is eligible for in-home services, the department shall conduct a "Safe at Home
92 Evaluation" to determine the client's physical, mental, and environmental capacity. The
93 department shall develop the safe at home evaluation tool by rule in accordance with chapter
94 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate
95 level of services and professionals involved in the client's care. The plan of service or care for
96 each in-home services client shall be authorized by a nurse. The department may authorize the
97 licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of
98 the client's condition and to establish a plan of services or care. The department may use the
99 expertise, services, or programs of other departments and agencies on a case-by-case basis to
100 establish the plan of service or care. The department may, as indicated by the safe at home

101 evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for
102 evaluation and treatment as necessary.

103 [16.] 14. Authorized nurse visits shall occur at least twice annually to assess the client
104 and the client's plan of services. The provider nurse shall report the results of his or her visits
105 to the client's case manager. If the provider nurse believes that the plan of service requires
106 alteration, the department shall be notified and the department shall make a client evaluation.
107 All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
108 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients
109 whose services have reached one hundred percent of the average statewide charge for care and
110 treatment in an intermediate care facility, provided that the services have been preauthorized by
111 the department.

112 [17.] 15. All in-home services clients shall be advised of their rights by the department
113 or the department's designee at the initial evaluation. The rights shall include, but not be limited
114 to, the right to call the department for any reason, including dissatisfaction with the provider or
115 services. The department may contract for services relating to receiving such complaints. The
116 department shall establish a process to receive such nonabuse and neglect calls other than the
117 elder abuse and neglect hotline.

118 [18.] 16. Subject to appropriations, all nurse visits authorized in sections 192.2400 to
119 192.2475 shall be reimbursed to the in-home services provider agency.

192.2475. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter; first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; or social worker has reasonable cause to believe that an in-home services client has
12 been abused or neglected, as a result of in-home services, he or she shall immediately report or
13 cause a report to be made to the department. If the report is made by a physician of the in-home
14 services client, the department shall maintain contact with the physician regarding the progress
15 of the investigation.

16 2. [When a report of deteriorating physical condition resulting in possible abuse or
17 neglect of an in-home services client is received by the department, the client's case manager and

18 the department nurse shall be notified. The client's case manager shall investigate and
19 immediately report the results of the investigation to the department nurse. The department may
20 authorize the in-home services provider nurse to assist the case manager with the investigation.

21 3. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection 1 of this section regarding the detection and report of abuse and
23 neglect pursuant to this section.

24 4.] Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 [5.] 3. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the
29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 [6.] 4. In addition to those persons required to report under subsection 1 of this section,
32 any other person having reasonable cause to believe that an in-home services client or home
33 health patient has been abused or neglected by an in-home services employee or home health
34 agency employee may report such information to the department.

35 [7.] 5. If the investigation indicates possible abuse or neglect of an in-home services
36 client or home health patient, the investigator shall refer the complaint together with his or her
37 report to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 [8.] 6. Reports shall be confidential, as provided under section 192.2500.

47 [9.] 7. Anyone, except any person who has abused or neglected an in-home services
48 client or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 [10.] 8. Within five working days after a report required to be made under this section
53 is received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 [11.] 9. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or she or any member of his or her family has made a report of any violation or
59 suspected violation of laws, standards or regulations applying to the in-home services provider
60 agency or home health agency or any in-home services employee or home health agency
61 employee which he or she has reasonable cause to believe has been committed or has occurred.

62 [12.] 10. Any person who abuses or neglects an in-home services client or home health
63 patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184. If such
64 person is an in-home services employee and has been found guilty by a court, and if the
65 supervising in-home services provider willfully and knowingly failed to report known abuse by
66 such employee to the department, the supervising in-home services provider may be subject to
67 administrative penalties of one thousand dollars per violation to be collected by the department
68 and the money received therefor shall be paid to the director of revenue and deposited in the state
69 treasury to the credit of the general revenue fund. Any in-home services provider which has had
70 administrative penalties imposed by the department or which has had its contract terminated may
71 seek an administrative review of the department's action pursuant to chapter 621. Any decision
72 of the administrative hearing commission may be appealed to the circuit court in the county
73 where the violation occurred for a trial de novo. For purposes of this subsection, the term
74 "violation" means a determination of guilt by a court.

75 [13.] 11. The department shall establish a quality assurance and supervision process for
76 clients that requires an in-home services provider agency to conduct random visits to verify
77 compliance with program standards and verify the accuracy of records kept by an in-home
78 services employee.

79 [14.] 12. The department shall maintain the employee disqualification list and place on
80 the employee disqualification list the names of any persons who have been finally determined
81 by the department, pursuant to section 192.2490, to have recklessly, knowingly or purposely
82 abused or neglected an in-home services client or home health patient while employed by an
83 in-home services provider agency or home health agency. For purposes of this section only,
84 "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section.
85 A person acts "knowingly" with respect to the person's conduct when a reasonable person should
86 be aware of the result caused by his or her conduct. A person acts "recklessly" when the person
87 consciously disregards a substantial and unjustifiable risk that the person's conduct will result

88 in serious physical injury and such disregard constitutes a gross deviation from the standard of
89 care that a reasonable person would exercise in the situation.

90 [15.] 13. At the time a client has been assessed to determine the level of care as required
91 by rule and is eligible for in-home services, the department shall conduct a "Safe at Home
92 Evaluation" to determine the client's physical, mental, and environmental capacity. The
93 department shall develop the safe at home evaluation tool by rule in accordance with chapter
94 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate
95 level of services and professionals involved in the client's care. The plan of service or care for
96 each in-home services client shall be authorized by a nurse. The department may authorize the
97 licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of
98 the client's condition and to establish a plan of services or care. The department may use the
99 expertise, services, or programs of other departments and agencies on a case-by-case basis to
100 establish the plan of service or care. The department may, as indicated by the safe at home
101 evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for
102 evaluation and treatment as necessary.

103 [16.] 14. Authorized nurse visits shall occur at least twice annually to assess the client
104 and the client's plan of services. The provider nurse shall report the results of his or her visits
105 to the client's case manager. If the provider nurse believes that the plan of service requires
106 alteration, the department shall be notified and the department shall make a client evaluation.
107 All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
108 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients
109 whose services have reached one hundred percent of the average statewide charge for care and
110 treatment in an intermediate care facility, provided that the services have been preauthorized by
111 the department.

112 [17.] 15. All in-home services clients shall be advised of their rights by the department
113 or the department's designee at the initial evaluation. The rights shall include, but not be limited
114 to, the right to call the department for any reason, including dissatisfaction with the provider or
115 services. The department may contract for services relating to receiving such complaints. The
116 department shall establish a process to receive such nonabuse and neglect calls other than the
117 elder abuse and neglect hotline.

118 [18.] 16. Subject to appropriations, all nurse visits authorized in sections 192.2400 to
119 192.2475 shall be reimbursed to the in-home services provider agency.

301.559. 1. It shall be unlawful for any person to engage in business as or act as a motor
2 vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction,
3 wholesale motor vehicle auction or wholesale motor vehicle dealer without first obtaining a
4 license from the department as required in sections 301.550 to 301.573. Any person who

5 maintains or operates any business wherein a license is required pursuant to the provisions of
6 sections 301.550 to 301.573, without such license, is guilty of a class A misdemeanor. Any
7 person committing a second violation of sections 301.550 to 301.573 shall be guilty of a class
8 [D] E felony.

9 2. All dealer licenses shall expire on December thirty-first of the designated license
10 period. The department shall notify each person licensed under sections 301.550 to 301.573 of
11 the date of license expiration and the amount of the fee required for renewal. The notice shall
12 be mailed at least ninety days before the date of license expiration to the licensee's last known
13 business address. The director shall have the authority to issue licenses valid for a period of up
14 to two years and to stagger the license periods for administrative efficiency and equalization of
15 workload, at the sole discretion of the director.

16 3. Every manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle
17 dealer, wholesale motor vehicle auction, boat dealer or public motor vehicle auction shall make
18 application to the department for issuance of a license. The application shall be on forms
19 prescribed by the department and shall be issued under the terms and provisions of sections
20 301.550 to 301.573 and require all applicants, as a condition precedent to the issuance of a
21 license, to provide such information as the department may deem necessary to determine that the
22 applicant is bona fide and of good moral character, except that every application for a license
23 shall contain, in addition to such information as the department may require, a statement to the
24 following facts:

25 (1) The name and business address, not a post office box, of the applicant and the
26 fictitious name, if any, under which he intends to conduct his business; and if the applicant be
27 a partnership, the name and residence address of each partner, an indication of whether the
28 partner is a limited or general partner and the name under which the partnership business is to
29 be conducted. In the event that the applicant is a corporation, the application shall list the names
30 of the principal officers of the corporation and the state in which it is incorporated. Each
31 application shall be verified by the oath or affirmation of the applicant, if an individual, or in the
32 event an applicant is a partnership or corporation, then by a partner or officer;

33 (2) Whether the application is being made for registration as a manufacturer, boat
34 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor
35 vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction;

36 (3) When the application is for a new motor vehicle franchise dealer, the application
37 shall be accompanied by a copy of the franchise agreement in the registered name of the
38 dealership setting out the appointment of the applicant as a franchise holder and it shall be signed
39 by the manufacturer, or his authorized agent, or the distributor, or his authorized agent, and shall
40 include a description of the make of all motor vehicles covered by the franchise. The department

41 shall not require a copy of the franchise agreement to be submitted with each renewal application
42 unless the applicant is now the holder of a franchise from a different manufacturer or distributor
43 from that previously filed, or unless a new term of agreement has been entered into;

44 (4) When the application is for a public motor vehicle auction, that the public motor
45 vehicle auction has met the requirements of section 301.561.

46 4. No insurance company, finance company, credit union, savings and loan association,
47 bank or trust company shall be required to obtain a license from the department in order to sell
48 any motor vehicle, trailer or vessel repossessed or purchased by the company on the basis of total
49 destruction or theft thereof when the sale of the motor vehicle, trailer or vessel is in conformance
50 with applicable title and registration laws of this state.

51 5. No person shall be issued a license to conduct a public motor vehicle auction or
52 wholesale motor vehicle auction if such person has a violation of sections 301.550 to 301.573
53 or other violations of chapter 301, sections 407.511 to 407.556, or section 578.120 which
54 resulted in a felony conviction or finding of guilt or a violation of any federal motor vehicle laws
55 which resulted in a felony conviction or finding of guilt.

339.100. 1. The commission may, upon its own motion, and shall upon receipt of a
2 written complaint filed by any person, investigate any real estate-related activity of a licensee
3 licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or
4 entity acting as or representing themselves as a real estate licensee. In conducting such
5 investigation, if the questioned activity or written complaint involves an affiliated licensee, the
6 commission may forward a copy of the information received to the affiliated licensee's
7 designated broker. The commission shall have the power to hold an investigatory hearing to
8 determine whether there is a probability of a violation of sections 339.010 to 339.180 and
9 sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to
10 compel the production of records and papers bearing on the complaint. The commission shall
11 have the power to issue a subpoena and to compel any person in this state to come before the
12 commission to offer testimony or any material specified in the subpoena. Subpoenas and
13 subpoenas duces tecum issued pursuant to this section shall be served in the same manner as
14 subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that
15 allowed in the circuit court in civil cases.

16 2. The commission may cause a complaint to be filed with the administrative hearing
17 commission as provided by the provisions of chapter 621 against any person or entity licensed
18 under this chapter or any licensee who has failed to renew or has surrendered his or her
19 individual or entity license for any one or any combination of the following acts:

20 (1) Failure to maintain and deposit in a special account, separate and apart from his or
21 her personal or other business accounts, all moneys belonging to others entrusted to him or her

22 while acting as a real estate broker or as the temporary custodian of the funds of others, until the
23 transaction involved is consummated or terminated, unless all parties having an interest in the
24 funds have agreed otherwise in writing;

25 (2) Making substantial misrepresentations or false promises or suppression, concealment
26 or omission of material facts in the conduct of his or her business or pursuing a flagrant and
27 continued course of misrepresentation through agents, salespersons, advertising or otherwise in
28 any transaction;

29 (3) Failing within a reasonable time to account for or to remit any moneys, valuable
30 documents or other property, coming into his or her possession, which belongs to others;

31 (4) Representing to any lender, guaranteeing agency, or any other interested party, either
32 verbally or through the preparation of false documents, an amount in excess of the true and
33 actual sale price of the real estate or terms differing from those actually agreed upon;

34 (5) Failure to timely deliver a duplicate original of any and all instruments to any party
35 or parties executing the same where the instruments have been prepared by the licensee or under
36 his or her supervision or are within his or her control, including, but not limited to, the
37 instruments relating to the employment of the licensee or to any matter pertaining to the
38 consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property,
39 or any type of real estate transaction in which he or she may participate as a licensee;

40 (6) Acting for more than one party in a transaction without the knowledge of all parties
41 for whom he or she acts, or accepting a commission or valuable consideration for services from
42 more than one party in a real estate transaction without the knowledge of all parties to the
43 transaction;

44 (7) Paying a commission or valuable consideration to any person for acts or services
45 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

46 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future
47 profits which may result from the resale of real property;

48 (9) Having been finally adjudicated and been found guilty of the violation of any state
49 or federal statute which governs the sale or rental of real property or the conduct of the real estate
50 business as defined in subsection 1 of section 339.010;

51 (10) Obtaining a certificate or registration of authority, permit or license for himself or
52 herself or anyone else by false or fraudulent representation, fraud or deceit;

53 (11) Representing a real estate broker other than the broker with whom associated
54 without the express written consent of the broker with whom associated;

55 (12) Accepting a commission or valuable consideration for the performance of any of
56 the acts referred to in section 339.010 from any person except the broker with whom associated
57 at the time the commission or valuable consideration was earned;

58 (13) Using prizes, money, gifts or other valuable consideration as inducement to secure
59 customers or clients to purchase, lease, sell or list property when the awarding of such prizes,
60 money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or
61 listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting
62 lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective
63 purchaser of real property;

64 (14) Placing a sign on or advertising any property offering it for sale or rent without the
65 written consent of the owner or his or her duly authorized agent;

66 (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling
67 any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to
68 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections
69 339.710 to 339.860;

70 (16) Committing any act which would otherwise be grounds for the commission to
71 refuse to issue a license under section 339.040;

72 (17) Failure to timely inform seller of all written offers unless otherwise instructed in
73 writing by the seller;

74 (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
75 contendere, in a criminal prosecution under the laws of this state or any other state or of the
76 United States, for any offense reasonably related to the qualifications, functions or duties of any
77 profession licensed or regulated under this chapter, for any offense an essential element of which
78 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether
79 or not sentence is imposed;

80 (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business
81 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

82 (20) Disciplinary action against the holder of a license or other right to practice any
83 profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted
84 by another state, territory, federal agency, or country upon grounds for which revocation,
85 suspension, or probation is authorized in this state;

86 (21) Been found by a court of competent jurisdiction of having used any controlled
87 substance, as defined in chapter 195, to the extent that such use impairs a person's ability to
88 perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and
89 sections 339.710 to 339.860;

90 (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

91 (23) Assisting or enabling any person to practice or offer to practice any profession
92 licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who

93 is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections
94 339.710 to 339.860;

95 (24) Use of any advertisement or solicitation which is knowingly false, misleading or
96 deceptive to the general public or persons to whom the advertisement or solicitation is primarily
97 directed;

98 (25) Making any material misstatement, misrepresentation, or omission with regard to
99 any application for licensure or license renewal. As used in this section, "material" means
100 important information about which the commission should be informed and which may influence
101 a licensing decision;

102 (26) Engaging in, committing, or assisting any person in engaging in or committing
103 mortgage fraud, as defined in section 443.930.

104 3. After the filing of such complaint, the proceedings will be conducted in accordance
105 with the provisions of law relating to the administrative hearing commission. A finding of the
106 administrative hearing commissioner that the licensee has performed or attempted to perform one
107 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by
108 the commission, or the placing of the licensee on probation on such terms and conditions as the
109 real estate commission shall deem appropriate, or the imposition of a civil penalty by the
110 commission not to exceed two thousand five hundred dollars for each offense. Each day of a
111 continued violation shall constitute a separate offense.

112 4. The commission may prepare a digest of the decisions of the administrative hearing
113 commission which concern complaints against licensed brokers or salespersons and cause such
114 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new
115 or changed rules adopted by the commission and other information of significance to licensees.

116 5. Notwithstanding other provisions of this section, a broker or salesperson's license shall
117 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has
118 pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the
119 following offenses or offenses of a similar nature established under the laws of this, any other
120 state, the United States, or any other country, notwithstanding whether sentence is imposed:

121 (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

122 (2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape,
123 statutory rape in the first degree, statutory rape in the second degree, rape in the second degree,
124 sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree,
125 statutory sodomy in the second degree, child molestation in the first degree, child molestation
126 in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct
127 involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior

128 to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013,
129 sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

130 (3) Any of the following offenses against the family and related offenses: incest,
131 abandonment of a child in the first degree, abandonment of a child in the second degree,
132 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual
133 performance, promoting sexual performance by a child, or trafficking in children;

134 (4) Any of the following offenses involving child pornography and related offenses:
135 promoting obscenity in the first degree, promoting obscenity in the second degree when the
136 penalty is enhanced to a class [D] E felony, promoting child pornography in the first degree,
137 promoting child pornography in the second degree, possession of child pornography in the first
138 degree, possession of child pornography in the second degree, furnishing child pornography to
139 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene
140 material; and

141 (5) Mortgage fraud as defined in section 570.310.

142 6. A person whose license was revoked under subsection 5 of this section may appeal
143 such revocation to the administrative hearing commission. Notice of such appeal must be
144 received by the administrative hearing commission within ninety days of mailing, by certified
145 mail, the notice of revocation. Failure of a person whose license was revoked to notify the
146 administrative hearing commission of his or her intent to appeal waives all rights to appeal the
147 revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the
148 administrative hearing commission.

400.9-501. (a) Except as otherwise provided in subsection (b), if the local law of this
2 state governs perfection of a security interest or agricultural lien, the office in which to file a
3 financing statement to perfect the security interest or agricultural lien is:

4 (1) The office designated for the filing or recording of a record of a mortgage on the
5 related real property, if:

6 (A) The collateral is as-extracted collateral or timber to be cut; or

7 (B) The financing statement is filed as a fixture filing and the collateral is goods that are
8 or are to become fixtures; or

9 (2) The office of the secretary of state in all other cases, including a case in which the
10 collateral is goods that are or are to become fixtures and the financing statement is not filed as
11 a fixture filing.

12 (b) The office in which to file a financing statement to perfect a security interest in
13 collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The
14 financing statement also constitutes a fixture filing as to the collateral indicated in the financing
15 statement which is or is to become fixtures.

16 (c) A person shall not knowingly or intentionally file, attempt to file, or record any
17 document related to real property with a recorder of deeds under chapter 59 or a financing
18 statement with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of
19 this section, with the intent that such document or statement be used to harass or defraud any
20 other person or knowingly or intentionally file, attempt to file, or record such a document or
21 statement that is materially false or fraudulent.

22 (1) A person who violates this subsection shall be guilty of a class [D] E felony.

23 (2) If a person is convicted of a violation under this subsection, the court may order
24 restitution.

25 (d) In the alternative to the provisions of sections 428.105 through 428.135, if a person
26 files a false or fraudulent financing statement with the secretary of state under subdivision (2)
27 of subsection (a) or subsection (b) of this section, a debtor named in that financing statement may
28 file an action against the person that filed the financing statement seeking appropriate equitable
29 relief, actual damages, or punitive damages, including, but not limited to, reasonable attorney
30 fees.

557.021. 1. Any offense defined outside this code which is declared to be a
2 misdemeanor without specification of the penalty therefor is a class A misdemeanor.

3 2. Any offense defined outside this code which is declared to be a felony without
4 specification of the penalty therefor is a class E felony.

5 3. For the purpose of applying the extended term provisions of section 558.016 and the
6 minimum prison term provisions of section 558.019 and for determining the penalty for attempts
7 and conspiracies, offenses defined outside of this code shall be classified as follows:

8 (1) If the offense is a felony:

9 (a) It is a class A felony if the authorized penalty includes death, life imprisonment or
10 imprisonment for a term of twenty years or more;

11 (b) It is a class B felony if the maximum term of imprisonment authorized exceeds ten
12 years but is less than twenty years;

13 (c) It is a class C felony if the maximum term of imprisonment authorized is ten years;

14 (d) It is a class D felony if the maximum term of imprisonment **exceeds four years but**
15 **is less than ten years;**

16 (e) It is a class E felony if the maximum term of imprisonment is four years **or less;**

17 (2) If the offense is a misdemeanor:

18 (a) It is a class A misdemeanor if the authorized imprisonment exceeds six months in
19 jail;

20 (b) It is a class B misdemeanor if the authorized imprisonment exceeds thirty days but
21 is not more than six months;

- 22 (c) It is a class C misdemeanor if the authorized imprisonment is thirty days or less;
- 23 (d) It is a class D misdemeanor if it includes a mental state as an element of the offense
- 24 and there is no authorized imprisonment;
- 25 (e) It is an infraction if there is no authorized imprisonment.

562.014. 1. Guilt for an offense may be based upon a conspiracy to commit an offense

2 when a person, with the purpose of promoting or facilitating the commission of an offense,

3 agrees with another person or persons that they or one or more of them will engage in conduct

4 which constitutes such offense.

5 2. It is no defense to a prosecution for conspiring to commit an offense that a person,

6 who knows that a person with whom he or she conspires to commit an offense has conspired

7 with another person or persons to commit the same offense, does not know the identity of such

8 other person or persons.

9 3. If a person conspires to commit a number of offenses, he or she can be found guilty

10 of only one offense **of conspiracy** so long as such multiple offenses are the object of the same

11 agreement.

12 4. No person may be convicted of an offense based upon a conspiracy to commit an

13 offense unless an overt act in pursuance of such conspiracy is alleged and proved to have been

14 done by him or her or by a person with whom he or she conspired.

15 5. (1) No person shall be convicted of an offense based upon a conspiracy to commit

16 an offense if, after conspiring to commit the offense, he or she prevented the accomplishment

17 of the objectives of the conspiracy under circumstances manifesting a renunciation of his or her

18 criminal purpose.

19 (2) The defendant shall have the burden of injecting the issue of renunciation of criminal

20 purpose under subdivision (1) of this subsection.

21 6. For the purpose of time limitations on prosecutions:

22 (1) A conspiracy to commit an offense is a continuing course of conduct which

23 terminates when the offense or offenses which are its object are committed or the agreement that

24 they be committed is abandoned by the defendant and by those with whom he or she conspired;

25 (2) If an individual abandons the agreement, the conspiracy is terminated as to him or

26 her only if he or she advises those with whom he or she has conspired of his or her abandonment

27 or he or she informs the law enforcement authorities of the existence of the conspiracy and of

28 his or her participation in it.

29 7. A person shall not be charged, convicted or sentenced on the basis of the same course

30 of conduct of both the actual commission of an offense and a conspiracy to commit that offense.

31 8. Unless otherwise set forth in the statute creating the offense, when guilt for a felony

32 or misdemeanor is based upon a conspiracy to commit that offense, the felony or misdemeanor

33 shall be classified one step lower than the class provided for the felony or misdemeanor in the
34 statute creating the offense.

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect
2 the arrest, or from efforts to prevent the escape from custody, of a person he or she reasonably
3 believes to have committed an offense because of resistance or threatened resistance of the
4 arrestee. In addition to the use of physical force authorized under other sections of this chapter,
5 a law enforcement officer is, subject to the provisions of subsections 2 and 3, justified in the use
6 of such physical force as he or she reasonably believes is immediately necessary to effect the
7 arrest or to prevent the escape from custody.

8 2. The use of any physical force in making an arrest is not justified under this section
9 unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful,
10 **and the amount of physical force used was objectively reasonable in light of the totality of**
11 **the particular facts and circumstances confronting the officer on the scene, without regard**
12 **to the officer's underlying intent or motivation.**

13 3. **In effecting an arrest or in preventing an escape from custody**, a law enforcement
14 officer [in effecting an arrest or in preventing an escape from custody] is justified in using deadly
15 force only:

16 (1) When deadly force is authorized under other sections of this chapter; or

17 (2) When [he or she] **the officer** reasonably believes that such use of deadly force is
18 immediately necessary to effect the arrest **or prevent an escape from custody** and also
19 reasonably believes that the person to be arrested:

20 (a) Has committed or attempted to commit a felony **offense involving the infliction or**
21 **threatened infliction of serious physical injury**; or

22 (b) Is attempting to escape by use of a deadly weapon **or dangerous instrument**; or

23 (c) May otherwise endanger life or inflict serious physical injury **to the officer or others**
24 unless arrested without delay.

25 4. The defendant shall have the burden of injecting the issue of justification under this
26 section.

563.046. 1. A law enforcement officer need not retreat or desist from efforts to effect
2 the arrest, or from efforts to prevent the escape from custody, of a person he reasonably believes
3 to have committed an offense because of resistance or threatened resistance of the arrestee. In
4 addition to the use of physical force authorized under other sections of this chapter, he is, subject
5 to the provisions of subsections 2 and 3, justified in the use of such physical force as he
6 reasonably believes is immediately necessary to effect the arrest or to prevent the escape from
7 custody.

8 2. The use of any physical force in making an arrest is not justified under this section
9 unless the arrest is lawful or the law enforcement officer reasonably believes the arrest is lawful,
10 **and the amount of physical force used was objectively reasonable in light of the totality of**
11 **the particular facts and circumstances confronting the officer on the scene, without regard**
12 **to the officer's underlying intent or motivation.**

13 3. **In effecting an arrest or in preventing an escape from custody**, a law enforcement
14 officer [in effecting an arrest or in preventing an escape from custody] is justified in using deadly
15 force only:

16 (1) When such is authorized under other sections of this chapter; or

17 (2) When [he] **the officer** reasonably believes that such use of deadly force is
18 immediately necessary to effect the arrest **or prevent an escape from custody** and also
19 reasonably believes that the person to be arrested:

20 (a) Has committed or attempted to commit a felony **offense involving the infliction or**
21 **threatened infliction of serious physical injury**; or

22 (b) Is attempting to escape by use of a deadly weapon **or dangerous instrument**; or

23 (c) May otherwise endanger life or inflict serious physical injury **to the officer or others**
24 unless arrested without delay.

25 4. The defendant shall have the burden of injecting the issue of justification under this
26 section.

565.030. 1. Where murder in the first degree is charged but not submitted or where the
2 state waives the death penalty, the submission to the trier and all subsequent proceedings in the
3 case shall proceed as in all other criminal cases [with a single stage trial in which guilt and
4 punishment are submitted together].

5 2. Where murder in the first degree is submitted to the trier without a waiver of the death
6 penalty, the trial shall proceed in two stages before the same trier. At the first stage the trier shall
7 decide only whether the defendant is guilty or not guilty of any submitted offense. The issue of
8 punishment shall not be submitted to the trier at the first stage. If an offense is charged other
9 than murder in the first degree in a count together with a count of murder in the first degree, the
10 trial judge shall assess punishment on any such offense according to law, after the defendant is
11 found guilty of such offense and after he finds the defendant to be a prior offender pursuant to
12 chapter 558.

13 3. If murder in the first degree is submitted and the death penalty was not waived but the
14 trier finds the defendant guilty of a lesser homicide, a second stage of the trial shall proceed [at
15 which the only issue shall be the punishment to be assessed and declared. No further evidence
16 shall be received. If the trier is a jury it shall be instructed on the law] **as in all other criminal**

17 **cases.** The attorneys may then argue as in other criminal cases the issue of punishment, after
18 which the trier shall assess and declare the punishment as in all other criminal cases.

19 4. If the trier at the first stage of a trial where the death penalty was not waived finds the
20 defendant guilty of murder in the first degree, a second stage of the trial shall proceed at which
21 the only issue shall be the punishment to be assessed and declared. Evidence in aggravation and
22 mitigation of punishment, including but not limited to evidence supporting any of the
23 aggravating or mitigating circumstances listed in subsection 2 or 3 of section 565.032, may be
24 presented subject to the rules of evidence at criminal trials. Such evidence may include, within
25 the discretion of the court, evidence concerning the murder victim and the impact of the
26 [crime] **offense** upon the family of the victim and others. Rebuttal and surrebuttal evidence may
27 be presented. The state shall be the first to proceed. If the trier is a jury it shall be instructed on
28 the law. The attorneys may then argue the issue of punishment to the jury, and the state shall
29 have the right to open and close the argument. The trier shall assess and declare the punishment
30 at life imprisonment without eligibility for probation, parole, or release except by act of the
31 governor:

32 (1) If the trier finds by a preponderance of the evidence that the defendant is
33 intellectually disabled; or

34 (2) If the trier does not find beyond a reasonable doubt at least one of the statutory
35 aggravating circumstances set out in subsection 2 of section 565.032; or

36 (3) If the trier concludes that there is evidence in mitigation of punishment, including
37 but not limited to evidence supporting the statutory mitigating circumstances listed in subsection
38 3 of section 565.032, which is sufficient to outweigh the evidence in aggravation of punishment
39 found by the trier; or

40 (4) If the trier decides under all of the circumstances not to assess and declare the
41 punishment at death. If the trier is a jury it shall be so instructed.

42

43 If the trier assesses and declares the punishment at death it shall, in its findings or verdict, set out
44 in writing the aggravating circumstance or circumstances listed in subsection 2 of section
45 565.032 which it found beyond a reasonable doubt. If the trier is a jury it shall be instructed
46 before the case is submitted that if it is unable to decide or agree upon the punishment the court
47 shall assess and declare the punishment at life imprisonment without eligibility for probation,
48 parole, or release except by act of the governor or death. The court shall follow the same
49 procedure as set out in this section whenever it is required to determine punishment for murder
50 in the first degree.

51 5. Upon written agreement of the parties and with leave of the court, the issue of the
52 defendant's intellectual disability may be taken up by the court and decided prior to trial without

53 prejudicing the defendant's right to have the issue submitted to the trier of fact as provided in
54 subsection 4 of this section.

55 6. As used in this section, the terms "intellectual disability" or "intellectually disabled"
56 refer to a condition involving substantial limitations in general functioning characterized by
57 significantly subaverage intellectual functioning with continual extensive related deficits and
58 limitations in two or more adaptive behaviors such as communication, self-care, home living,
59 social skills, community use, self-direction, health and safety, functional academics, leisure and
60 work, which conditions are manifested and documented before eighteen years of age.

61 7. The provisions of this section shall only govern offenses committed on or after August
62 28, 2001.

565.032. 1. In all cases of murder in the first degree for which the death penalty is
2 authorized, the judge in a jury-waived trial shall consider, or [he] shall include in his **or her**
3 instructions to the jury for it to consider:

4 (1) Whether a statutory aggravating circumstance or circumstances enumerated in
5 subsection 2 of this section is established by the evidence beyond a reasonable doubt; and

6 (2) If a statutory aggravating circumstance or circumstances is proven beyond a
7 reasonable doubt, whether the evidence as a whole justifies a sentence of death or a sentence of
8 life imprisonment without eligibility for probation, parole, or release except by act of the
9 governor. In determining the issues enumerated in subdivisions (1) and (2) of this subsection,
10 the trier shall consider all evidence which it finds to be in aggravation or mitigation of
11 punishment, including evidence received during the first stage of the trial and evidence
12 supporting any of the statutory aggravating or mitigating circumstances set out in subsections 2
13 and 3 of this section. If the trier is a jury, it shall not be instructed upon any specific evidence
14 which may be in aggravation or mitigation of punishment, but shall be instructed that each juror
15 shall consider any evidence which he **or she** considers to be aggravating or mitigating.

16 2. Statutory aggravating circumstances for a murder in the first degree offense shall be
17 limited to the following:

18 (1) The offense was committed by a person with a prior record of conviction for murder
19 in the first degree, or the offense was committed by a person who has one or more serious
20 assaultive criminal convictions;

21 (2) The murder in the first degree offense was committed while the offender was
22 engaged in the commission or attempted commission of another unlawful homicide;

23 (3) The offender by his **or her** act of murder in the first degree knowingly created a great
24 risk of death to more than one person by means of a weapon or device which would normally be
25 hazardous to the lives of more than one person;

26 (4) The offender committed the offense of murder in the first degree for himself **or**
27 **herself** or another, for the purpose of receiving money or any other thing of monetary value from
28 the victim of the murder or another;

29 (5) The murder in the first degree was committed against a judicial officer, former
30 judicial officer, prosecuting attorney or former prosecuting attorney, circuit attorney or former
31 circuit attorney, assistant prosecuting attorney or former assistant prosecuting attorney, assistant
32 circuit attorney or former assistant circuit attorney, peace officer or former peace officer, elected
33 official or former elected official during or because of the exercise of his official duty;

34 (6) The offender caused or directed another to commit murder in the first degree or
35 committed murder in the first degree as an agent or employee of another person;

36 (7) The murder in the first degree was outrageously or wantonly vile, horrible or
37 inhuman in that it involved torture, or depravity of mind;

38 (8) The murder in the first degree was committed against any peace officer, or fireman
39 while engaged in the performance of his **or her** official duty;

40 (9) The murder in the first degree was committed by a person in, or who has escaped
41 from, the lawful custody of a peace officer or place of lawful confinement;

42 (10) The murder in the first degree was committed for the purpose of avoiding,
43 interfering with, or preventing a lawful arrest or custody in a place of lawful confinement, of
44 himself **or herself** or another;

45 (11) The murder in the first degree was committed while the defendant was engaged in
46 the perpetration or was aiding or encouraging another person to perpetrate or attempt to
47 perpetrate a felony of any degree of rape, sodomy, burglary, robbery, kidnapping, or any felony
48 offense in chapter 195 **or 579**;

49 (12) The murdered individual was a witness or potential witness in any past or pending
50 investigation or past or pending prosecution, and was killed as a result of his **or her** status as a
51 witness or potential witness;

52 (13) The murdered individual was an employee of an institution or facility of the
53 department of corrections of this state or local correction agency and was killed in the course of
54 performing his **or her** official duties, or the murdered individual was an inmate of such
55 institution or facility;

56 (14) The murdered individual was killed as a result of the hijacking of an airplane, train,
57 ship, bus or other public conveyance;

58 (15) The murder was committed for the purpose of concealing or attempting to conceal
59 any felony offense defined in chapter 195 **or 579**;

60 (16) The murder was committed for the purpose of causing or attempting to cause a
61 person to refrain from initiating or aiding in the prosecution of a felony offense defined in
62 chapter 195 **or 579**;

63 (17) The murder was committed during the commission of [a crime] **an offense** which
64 is part of a pattern of criminal street gang activity as defined in section 578.421.

65 3. Statutory mitigating circumstances shall include the following:

66 (1) The defendant has no significant history of prior criminal activity;

67 (2) The murder in the first degree was committed while the defendant was under the
68 influence of extreme mental or emotional disturbance;

69 (3) The victim was a participant in the defendant's conduct or consented to the act;

70 (4) The defendant was an accomplice in the murder in the first degree committed by
71 another person and his **or her** participation was relatively minor;

72 (5) The defendant acted under extreme duress or under the substantial domination of
73 another person;

74 (6) The capacity of the defendant to appreciate the criminality of his **or her** conduct or
75 to conform his **or her** conduct to the requirements of law was substantially impaired;

76 (7) The age of the defendant at the time of the [crime] **offense**.

565.040. 1. In the event that the death penalty provided in this chapter is held to be
2 unconstitutional, any person convicted of murder in the first degree shall be sentenced by the
3 court to life imprisonment without eligibility for probation, parole, or release except by act of
4 the governor, with the exception that when a specific aggravating circumstance found in a case
5 is held to be unconstitutional or invalid for another reason, the supreme court of Missouri is
6 further authorized to remand the case for resentencing or retrial of the punishment pursuant to
7 subsection 5 of section [565.036] **565.035**.

8 2. In the event that any death sentence imposed pursuant to this chapter is held to be
9 unconstitutional, the trial court which previously sentenced the defendant to death shall cause
10 the defendant to be brought before the court and shall sentence the defendant to life
11 imprisonment without eligibility for probation, parole, or release except by act of the governor,
12 with the exception that when a specific aggravating circumstance found in a case is held to be
13 inapplicable, unconstitutional or invalid for another reason, the supreme court of Missouri is
14 further authorized to remand the case for retrial of the punishment pursuant to subsection 5 of
15 section 565.035.

565.188. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental
3 health, or health and senior services; employee of a local area agency on aging or an organized
4 area agency on aging program; **emergency medical technician, firefighter, first responder**;

5 funeral director; home health agency or home health agency employee; hospital and clinic
6 personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; social worker; or other person with responsibility for the care of [a person sixty
12 years of age or older] **an eligible adult as defined under section 192.2400** has reasonable cause
13 to suspect that [such a person] **the eligible adult** has been subjected to abuse or neglect or
14 observes [such a person] **the eligible adult** being subjected to conditions or circumstances which
15 would reasonably result in abuse or neglect, he or she shall immediately report or cause a report
16 to be made to the department in accordance with the provisions of sections 192.2400 to
17 192.2470. Any other person who becomes aware of circumstances which may reasonably be
18 expected to be the result of or result in abuse or neglect may report to the department.

19 2. Any person who knowingly fails to make a report as required in subsection 1 of this
20 section is guilty of a class A misdemeanor.

21 3. Any person who purposely files a false report of elder abuse or neglect is guilty of a
22 class A misdemeanor.

23 4. Every person who has been previously convicted of or pled guilty to making a false
24 report to the department and who is subsequently convicted of making a false report under
25 subsection 3 of this section is guilty of a class D felony.

26 5. Evidence of prior convictions of false reporting shall be heard by the court, out of the
27 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine
28 the existence of the prior convictions.

568.040. 1. A person commits the offense of nonsupport if he or she knowingly fails to
2 provide adequate support for his or her spouse; a parent commits the offense of nonsupport if
3 such parent knowingly fails to provide adequate support which such parent is legally obligated
4 to provide for his or her child or stepchild who is not otherwise emancipated by operation of law.

5 2. For purposes of this section:

6 (1) "Child" means any biological or adoptive child, or any child whose paternity has been
7 established under chapter 454, or chapter 210, or any child whose relationship to the defendant
8 has been determined, by a court of law in a proceeding for dissolution or legal separation, to be
9 that of child to parent;

10 (2) "Good cause" means any substantial reason why the defendant is unable to provide
11 adequate support. Good cause does not exist if the defendant purposely maintains his inability
12 to support;

13 (3) "Support" means food, clothing, lodging, and medical or surgical attention;

14 (4) It shall not constitute a failure to provide medical and surgical attention, if
15 nonmedical remedial treatment recognized and permitted under the laws of this state is provided.

16 3. Inability to provide support for good cause shall be an affirmative defense under this
17 section. A defendant who raises such affirmative defense has the burden of proving the defense
18 by a preponderance of the evidence.

19 4. The defendant shall have the burden of injecting the issues raised by subdivision (4)
20 of subsection 2 [and subsection 3] of this section.

21 5. The offense of criminal nonsupport is a class A misdemeanor, unless the total
22 arrearage is in excess of an aggregate of twelve monthly payments due under any order of
23 support issued by any court of competent jurisdiction or any authorized administrative agency,
24 in which case it is a class E felony.

25 6. If at any time an offender convicted of criminal nonsupport is placed on probation or
26 parole, there may be ordered as a condition of probation or parole that the offender commence
27 payment of current support as well as satisfy the arrearages. Arrearages may be satisfied first by
28 making such lump sum payment as the offender is capable of paying, if any, as may be shown
29 after examination of the offender's financial resources or assets, both real, personal, and mixed,
30 and second by making periodic payments. Periodic payments toward satisfaction of arrears when
31 added to current payments due may be in such aggregate sums as is not greater than fifty percent
32 of the offender's adjusted gross income after deduction of payroll taxes, medical insurance that
33 also covers a dependent spouse or children, and any other court- or administrative-ordered
34 support, only. If the offender fails to pay the current support and arrearages as ordered, the court
35 may revoke probation or parole and then impose an appropriate sentence within the range for the
36 class of offense that the offender was convicted of as provided by law, unless the offender proves
37 good cause for the failure to pay as required under subsection 3 of this section.

38 7. During any period that a nonviolent offender is incarcerated for criminal nonsupport,
39 if the offender is ready, willing, and able to be gainfully employed during said period of
40 incarceration, the offender, if he or she meets the criteria established by the department of
41 corrections, may be placed on work release to allow the offender to satisfy his or her obligation
42 to pay support. Arrearages shall be satisfied as outlined in the collection agreement.

43 8. Beginning August 28, 2009, every nonviolent first- and second-time offender then
44 incarcerated for criminal nonsupport, who has not been previously placed on probation or parole
45 for conviction of criminal nonsupport, may be considered for parole, under the conditions set
46 forth in subsection 6 of this section, or work release, under the conditions set forth in subsection
47 7 of this section.

48 9. Beginning January 1, 1991, every prosecuting attorney in any county which has
49 entered into a cooperative agreement with the child support enforcement service of the family
50 support division of the department of social services shall report to the division on a quarterly
51 basis the number of charges filed and the number of convictions obtained under this section by
52 the prosecuting attorney's office on all IV-D cases. The division shall consolidate the reported
53 information into a statewide report by county and make the report available to the general public.

54 10. Persons accused of committing the offense of nonsupport of the child shall be
55 prosecuted:

56 (1) In any county in which the child resided during the period of time for which the
57 defendant is charged; or

58 (2) In any county in which the defendant resided during the period of time for which the
59 defendant is charged.

569.090. 1. A person commits the offense of tampering in the second degree if he or
2 she:

3 (1) Tamper with property of another for the purpose of causing substantial
4 inconvenience to that person or to another; or

5 (2) Unlawfully rides in or upon another's automobile, airplane, motorcycle, motorboat
6 or other motor-propelled vehicle; or

7 (3) Tamper or makes connection with property of a utility; or

8 (4) Tamper with, or causes to be tampered with, any meter or other property of an
9 electric, gas, steam or water utility, the effect of which tampering is either:

10 (a) To prevent the proper measuring of electric, gas, steam or water service; or

11 (b) To permit the diversion of any electric, gas, steam or water service.

12 2. In any prosecution under subdivision (4) of subsection 1, proof that a meter or any
13 other property of a utility has been tampered with, and the person or persons accused received
14 the use or direct benefit of the electric, gas, steam or water service, with one or more of the
15 effects described in subdivision (4) of subsection 1, shall be sufficient to support an inference
16 which the trial court may submit to the trier of fact, from which the trier of fact may conclude
17 that there has been a violation of such subdivision by the person or persons who use or receive
18 the direct benefit of the electric, gas, steam or water service.

19 3. Tampering in the second degree is a class A misdemeanor unless:

20 (1) Committed as a second or subsequent violation of subdivision (4) of subsection 1,
21 in which case it is a class E felony; or

22 (2) The defendant has a prior conviction or has previously been found guilty pursuant
23 to paragraph (a) of subdivision (3) of subsection [3] 5 of section 570.030, or subdivision (2) of
24 subsection 1 of this section, in which case it is a class D felony.

- 571.020. 1. A person commits [a crime] **an offense** if such person knowingly possesses,
2 manufactures, transports, repairs, or sells:
3 (1) An explosive weapon;
4 (2) An explosive, incendiary or poison substance or material with the purpose to possess,
5 manufacture or sell an explosive weapon;
6 (3) A gas gun;
7 (4) A bullet or projectile which explodes or detonates upon impact because of an
8 independent explosive charge after having been shot from a firearm; or
9 (5) Knuckles; or
10 (6) Any of the following in violation of federal law:
11 (a) A machine gun;
12 (b) A short-barreled rifle or shotgun;
13 (c) A firearm silencer; or
14 (d) A switchblade knife.
- 15 2. A person does not commit [a crime] **an offense** pursuant to this section if his **or her**
16 conduct involved any of the items in subdivisions (1) to (5) of subsection 1, the item was
17 possessed in conformity with any applicable federal law, and the conduct:
18 (1) Was incident to the performance of official duty by the Armed Forces, National
19 Guard, a governmental law enforcement agency, or a penal institution; or
20 (2) Was incident to engaging in a lawful commercial or business transaction with an
21 organization enumerated in subdivision (1) of this section; or
22 (3) Was incident to using an explosive weapon in a manner reasonably related to a lawful
23 industrial or commercial enterprise; or
24 (4) Was incident to displaying the weapon in a public museum or exhibition; or
25 (5) Was incident to using the weapon in a manner reasonably related to a lawful dramatic
26 performance.
- 27 3. [A crime] **An offense** pursuant to subdivision (1), (2), (3) or (6) of subsection 1 of this
28 section is a class [C] **D** felony; a crime pursuant to subdivision (4) or (5) of subsection 1 of this
29 section is a class A misdemeanor.

- 571.060. 1. A person commits the [crime] **offense** of unlawful transfer of weapons if
2 he:
3 (1) Knowingly sells, leases, loans, gives away or delivers a firearm or ammunition for
4 a firearm to any person who, under the provisions of section 571.070, is not lawfully entitled to
5 possess such;
6 (2) Knowingly sells, leases, loans, gives away or delivers a blackjack to a person less
7 than eighteen years old without the consent of the child's custodial parent or guardian, or

8 recklessly, as defined in section 562.016, sells, leases, loans, gives away or delivers any firearm
9 to a person less than eighteen years old without the consent of the child's custodial parent or
10 guardian; provided, that this does not prohibit the delivery of such weapons to any peace officer
11 or member of the Armed Forces or National Guard while performing his official duty; or

12 (3) Recklessly, as defined in section 562.016, sells, leases, loans, gives away or delivers
13 a firearm or ammunition for a firearm to a person who is intoxicated.

14 2. Unlawful transfer of weapons under subdivision (1) of subsection 1 of this section is
15 a class [D] E felony; unlawful transfer of weapons under subdivisions (2) and (3) of subsection
16 1 of this section is a class A misdemeanor.

571.063. 1. As used in this section the following terms shall mean:

2 (1) "Ammunition", any cartridge, shell, or projectile designed for use in a firearm;

3 (2) "Licensed dealer", a person who is licensed under 18 U.S.C. Section 923 to engage
4 in the business of dealing in firearms;

5 (3) "Materially false information", any information that portrays an illegal transaction
6 as legal or a legal transaction as illegal;

7 (4) "Private seller", a person who sells or offers for sale any firearm, as defined in section
8 571.010, or ammunition.

9 2. A person commits the crime of fraudulent purchase of a firearm if such person:

10 (1) Knowingly solicits, persuades, encourages or entices a licensed dealer or private
11 seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which
12 the person knows would violate the laws of this state or the United States; or

13 (2) Provides to a licensed dealer or private seller of firearms or ammunition what the
14 person knows to be materially false information with intent to deceive the dealer or seller about
15 the legality of a transfer of a firearm or ammunition; or

16 (3) Willfully procures another to violate the provisions of subdivision (1) or (2) of this
17 subsection.

18 3. Fraudulent purchase of a firearm is a class [D] E felony.

19 4. This section shall not apply to criminal investigations conducted by the United States
20 Bureau of Alcohol, Tobacco, Firearms and Explosives, authorized agents of such investigations,
21 or to a peace officer, as defined in section 542.261, acting at the explicit direction of the United
22 States Bureau of Alcohol, Tobacco, Firearms and Explosives.

571.070. 1. A person commits the [crime] **offense** of unlawful possession of a firearm
2 if such person knowingly has any firearm in his or her possession and:

3 (1) Such person has been convicted of a felony under the laws of this state, or of a crime
4 under the laws of any state or of the United States which, if committed within this state, would
5 be a felony; or

6 (2) Such person is a fugitive from justice, is habitually in an intoxicated or drugged
7 condition, or is currently adjudged mentally incompetent.

8 2. Unlawful possession of a firearm is a class [C] **D** felony.

9 3. The provisions of subdivision (1) of subsection 1 of this section shall not apply to the
10 possession of an antique firearm.

571.072. 1. A person commits the [crime] **offense** of unlawful possession of an
2 explosive weapon if he or she has any explosive weapon in his or her possession and:

3 (1) He or she has pled guilty to or has been convicted of a dangerous felony, as defined
4 in section 556.061, or of an attempt to commit a dangerous felony, or of [a crime] **an offense**
5 under the laws of any state or of the United States which, if committed within this state, would
6 be a dangerous felony, or confined therefor in this state or elsewhere during the five-year period
7 immediately preceding the date of such possession; or

8 (2) He or she is a fugitive from justice, is habitually in an intoxicated or drugged
9 condition, or is currently adjudged mentally incompetent.

10 2. Unlawful possession of an explosive weapon is a class [C] **D** felony.

577.001. As used in this chapter, the following terms mean:

2 (1) "Aggravated offender", a person who has been found guilty of:

3 (a) Three or more intoxication-related traffic offenses committed on separate occasions;
4 or

5 (b) Two or more intoxication-related traffic offenses committed on separate occasions
6 where at least one of the intoxication-related traffic offenses is an offense committed in violation
7 of any state law, county or municipal ordinance, any federal offense, or any military offense in
8 which the defendant was operating a vehicle while intoxicated and another person was injured
9 or killed;

10 (2) "Aggravated boating offender", a person who has been found guilty of:

11 (a) Three or more intoxication-related boating offenses; or

12 (b) [Has been found guilty of one] **Two** or more intoxication-related boating offenses
13 committed on separate occasions where at least one of the intoxication-related [traffic] **boating**
14 offenses is an offense committed in violation of any state law, county or municipal ordinance,
15 any federal offense, or any military offense in which the defendant was operating a vessel while
16 intoxicated and another person was injured or killed;

17 (3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for
18 off-highway use which is fifty inches or less in width, with an unladen dry weight of one
19 thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed
20 to be straddled by the operator, or with a seat designed to carry more than one person, and
21 handlebars for steering control;

22 (4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but
23 not any juvenile court or drug court;

24 (5) "Chronic offender", a person who has been found guilty of:

25 (a) Four or more intoxication-related traffic offenses committed on separate occasions;

26 or

27 (b) Three or more intoxication-related traffic offenses committed on separate occasions
28 where at least one of the intoxication-related traffic offenses is an offense committed in violation
29 of any state law, county or municipal ordinance, any federal offense, or any military offense in
30 which the defendant was operating a vehicle while intoxicated and another person was injured
31 or killed; or

32 (c) Two or more intoxication-related traffic offenses committed on separate occasions
33 where both intoxication-related traffic offenses were offenses committed in violation of any state
34 law, county or municipal ordinance, any federal offense, or any military offense in which the
35 defendant was operating a vehicle while intoxicated and another person was injured or killed;

36 (6) "Chronic boating offender", a person who has been found guilty of:

37 (a) Four or more intoxication-related boating offenses; or

38 (b) Three or more intoxication-related boating offenses committed on separate occasions
39 where at least one of the intoxication-related boating offenses is an offense committed in
40 violation of any state law, county or municipal ordinance, any federal offense, or any military
41 offense in which the defendant was operating a vessel while intoxicated and another person was
42 injured or killed; or

43 (c) Two or more intoxication-related boating offenses committed on separate occasions
44 where both intoxication-related boating offenses were offenses committed in violation of any
45 state law, county or municipal ordinance, any federal offense, or any military offense in which
46 the defendant was operating a vessel while intoxicated and another person was injured or killed;

47 (7) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
48 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
49 location of the person who is being monitored, and regularly transmitting the data. Continuous
50 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
51 section 217.690;

52 (8) "Controlled substance", a drug, substance, or immediate precursor in schedules I to
53 V listed in section 195.017;

54 (9) "Drive", "driving", "operates" or "operating", means physically driving or operating
55 a vehicle or vessel;

56 (10) "Flight crew member", the pilot in command, copilots, flight engineers, and flight
57 navigators;

58 (11) "Habitual offender", a person who has been found guilty of:

59 (a) Five or more intoxication-related traffic offenses committed on separate occasions;

60 or

61 (b) Four or more intoxication-related traffic offenses committed on separate occasions
62 where at least one of the intoxication-related traffic offenses is an offense committed in violation
63 of any state law, county or municipal ordinance, any federal offense, or any military offense in
64 which the defendant was operating a vehicle while intoxicated and another person was injured
65 or killed; or

66 (c) Three or more intoxication-related traffic offenses committed on separate occasions
67 where at least two of the intoxication-related traffic offenses were offenses committed in
68 violation of any state law, county or municipal ordinance, any federal offense, or any military
69 offense in which the defendant was operating a vehicle while intoxicated and another person was
70 injured or killed; or

71 (d) While driving while intoxicated, the defendant acted with criminal negligence to:

72 a. Cause the death of any person not a passenger in the vehicle operated by the
73 defendant, including the death of an individual that results from the defendant's vehicle leaving
74 a highway, as defined by section 301.010, or the highway's right-of-way; or

75 b. Cause the death of two or more persons; or

76 c. Cause the death of any person while he or she has a blood alcohol content of at least
77 eighteen-hundredths of one percent by weight of alcohol in such person's blood;

78 (12) "Habitual boating offender", a person who has been found guilty of:

79 (a) Five or more intoxication-related boating offenses; or

80 (b) Four or more intoxication-related boating offenses committed on separate occasions
81 where at least one of the intoxication-related boating offenses is an offense committed in
82 violation of any state law, county or municipal ordinance, any federal offense, or any military
83 offense in which the defendant was operating a vessel while intoxicated and another person was
84 injured or killed; or

85 (c) Three or more intoxication-related boating offenses committed on separate occasions
86 where at least two of the intoxication-related boating offenses were offenses committed in
87 violation of any state law, county or municipal ordinance, any federal offense, or any military
88 offense in which the defendant was operating a vessel while intoxicated and another person was
89 injured or killed; or

90 (d) While boating while intoxicated, the defendant acted with criminal negligence to:

91 a. Cause the death of any person not a passenger in the vessel operated by the defendant,
92 including the death of an individual that results from the defendant's vessel leaving the water;

93 or

94 b. Cause the death of two or more persons; or

95 c. Cause the death of any person while he or she has a blood alcohol content of at least
96 eighteen-hundredths of one percent by weight of alcohol in such person's blood;

97 (13) "Intoxicated" or "intoxicated condition", when a person is under the influence of
98 alcohol, a controlled substance, or drug, or any combination thereof;

99 (14) "Intoxication-related boating offense", operating a vessel while intoxicated; boating
100 while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which
101 the defendant was operating a vessel while intoxicated and another person was injured or killed
102 in violation of any state law, county or municipal ordinance, any federal offense, or any military
103 offense;

104 (15) "Intoxication-related traffic offense", driving while intoxicated, driving with
105 excessive blood alcohol content, **driving under the influence of alcohol or drugs in violation**
106 **of a county or municipal ordinance**, or an offense in which the defendant was operating a
107 vehicle while intoxicated and another person was injured or killed in violation of any state law,
108 county or municipal ordinance, any federal offense, or any military offense;

109 (16) "Law enforcement officer" or "arresting officer", includes the definition of law
110 enforcement officer in section 556.061 and military policemen conducting traffic enforcement
111 operations on a federal military installation under military jurisdiction in the state of Missouri;

112 (17) "Operate a vessel", to physically control the movement of a vessel in motion under
113 mechanical or sail power in water;

114 (18) "Persistent offender", a person who has been found guilty of:

115 (a) Two or more intoxication-related traffic offenses committed on separate occasions;

116 **or**

117 (b) **One intoxication-related traffic offense committed in violation of any state law,**
118 **county or municipal ordinance, federal offense, or military offense in which the defendant**
119 **was operating a vehicle while intoxicated and another person was injured or killed;**

120 (19) "Persistent boating offender", a person who has been found guilty of:

121 (a) Two or more intoxication-related boating offenses committed on separate occasions;

122 **or**

123 (b) **One intoxication-related boating offense committed in violation of any state law,**
124 **county or municipal ordinance, federal offense, or military offense in which the defendant**
125 **was operating a vessel while intoxicated and another person was injured or killed;**

126 (20) "Prior offender", a person who has been found guilty of one intoxication-related
127 traffic offense, where such prior offense occurred within five years of the occurrence of the
128 intoxication-related traffic offense for which the person is charged;

129 (21) "Prior boating offender", a person who has been found guilty of one
130 intoxication-related boating offense, where such prior offense occurred within five years of the
131 occurrence of the intoxication-related boating offense for which the person is charged.

577.010. 1. A person commits the offense of driving while intoxicated if he or she
2 operates a vehicle while in an intoxicated condition.

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior offender; or

7 (b) A person less than seventeen years of age is present in the vehicle;

8 (3) A class E felony if:

9 (a) The defendant is a persistent offender; or

10 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
11 physical injury to another person;

12 (4) A class D felony if:

13 (a) The defendant is an aggravated offender;

14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to a law enforcement officer or emergency personnel; or

16 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;

18 (5) A class C felony if:

19 (a) The defendant is a chronic offender;

20 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or

22 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;

24 (6) A class B felony if:

25 (a) The defendant is a habitual offender; or

26 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
27 the death of a law enforcement officer or emergency personnel;

28 (7) A class A felony if the defendant is a habitual offender as a result of being found
29 guilty of an act described under paragraph (d) of subdivision (11) of section 577.001 and is found
30 guilty of a subsequent violation of such paragraph.

31 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
32 of the offense of driving while intoxicated as a first offense shall not be granted a suspended
33 imposition of sentence:

34 (1) Unless such person shall be placed on probation for a minimum of two years; or

35 (2) In a circuit where a DWI court or docket created under section 478.007 or other
36 court-ordered treatment program is available, and where the offense was committed with
37 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
38 the individual participates and successfully completes a program under such DWI court or docket
39 or other court-ordered treatment program.

40 4. If a person is found guilty of a second or subsequent offense of driving while
41 intoxicated, the court may order the person to submit to a period of continuous alcohol
42 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
43 a condition of probation.

44 5. If a person is not granted a suspended imposition of sentence for the reasons described
45 in subsection 3 of this section:

46 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths
47 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
48 shall be not less than forty-eight hours;

49 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
50 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
51 not less than five days.

52 6. A person found guilty of the offense of driving while intoxicated:

53 (1) As a prior offender, persistent offender, aggravated offender, chronic offender, or
54 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay
55 a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

56 (2) As a prior offender shall not be granted parole or probation until he or she has served
57 a minimum of ten days imprisonment:

58 (a) Unless as a condition of such parole or probation such person performs at least thirty
59 days of community service under the supervision of the court in those jurisdictions which have
60 a recognized program for community service; or

61 (b) The offender participates in and successfully completes a program established under
62 section 478.007 or other court-ordered treatment program, if available, and as part of either
63 program, the offender performs at least thirty days of community service under the supervision
64 of the court;

65 (3) As a persistent offender shall not be eligible for parole or probation until he or she
66 has served a minimum of thirty days imprisonment:

67 (a) Unless as a condition of such parole or probation such person performs at least sixty
68 days of community service under the supervision of the court in those jurisdictions which have
69 a recognized program for community service; or

70 (b) The offender participates in and successfully completes a program established under
71 section 478.007 or other court-ordered treatment program, if available, and as part of either
72 program, the offender performs at least sixty days of community service under the supervision
73 of the court;

74 (4) As an aggravated offender shall not be eligible for parole or probation until he or she
75 has served a minimum of sixty days imprisonment;

76 (5) As a chronic **or habitual** offender shall not be eligible for parole or probation until
77 he or she has served a minimum of two years imprisonment; and

78 (6) Any probation or parole granted under this subsection may include a period of
79 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
80 times per day.

577.012. 1. A person commits the offense of driving with excessive blood alcohol
2 content if such person operates:

3 (1) A vehicle while having eight-hundredths of one percent or more by weight of alcohol
4 in his or her blood; or

5 (2) A commercial motor vehicle while having four one-hundredths of one percent or
6 more by weight of alcohol in his or her blood.

7 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
8 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may
9 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes
10 of determining the alcoholic content of a person's blood under this section, the test shall be
11 conducted in accordance with the provisions of sections 577.020 to 577.041.

12 3. The offense of driving with excessive blood alcohol content is:

13 (1) A class B misdemeanor;

14 (2) A class A misdemeanor if the defendant is alleged and proved to be a prior offender;

15 (3) A class E felony if the defendant is alleged and proved to be a persistent offender;

16 (4) A class D felony if the defendant is alleged and proved to be an aggravated offender;

17 (5) A class C felony if the defendant is alleged and proved to be a chronic offender;

18 (6) A class B felony if the defendant is alleged and proved to be a habitual offender.

19 4. A person found guilty of the offense of driving with an excessive blood alcohol
20 content as a first offense shall not be granted a suspended imposition of sentence:

21 (1) Unless such person shall be placed on probation for a minimum of two years; or

22 (2) In a circuit where a DWI court or docket created under section 478.007 or other
23 court-ordered treatment program is available, and where the offense was committed with
24 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless

25 the individual participates in and successfully completes a program under such DWI court or
26 docket or other court-ordered treatment program.

27 5. If a person is not granted a suspended imposition of sentence for the reasons described
28 in subsection 4 of this section:

29 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths
30 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
31 shall be not less than forty-eight hours;

32 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
33 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
34 not less than five days.

35 6. If a person is found guilty of a second or subsequent offense of driving with an
36 excessive blood alcohol content, the court may order the person to submit to a period of
37 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
38 times per day as a condition of probation.

39 7. A person found guilty of driving with excessive blood alcohol content:

40 (1) As a prior offender, persistent offender, aggravated offender, chronic offender or
41 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay
42 a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

43 (2) As a prior offender shall not be granted parole or probation until he or she has served
44 a minimum of ten days imprisonment:

45 (a) Unless as a condition of such parole or probation such person performs at least thirty
46 days of community service under the supervision of the court in those jurisdictions which have
47 a recognized program for community service; or

48 (b) The offender participates in and successfully completes a program established under
49 section 478.007 or other court-ordered treatment program, if available, and as part of either
50 program, the offender performs at least thirty days of community service under the supervision
51 of the court;

52 (3) As a persistent offender shall not be granted parole or probation until he or she has
53 served a minimum of thirty days imprisonment:

54 (a) Unless as a condition of such parole or probation such person performs at least sixty
55 days of community service under the supervision of the court in those jurisdictions which have
56 a recognized program for community service; or

57 (b) The offender participates in and successfully completes a program established under
58 section 478.007 or other court-ordered treatment program, if available, and as part of either
59 program, the offender performs at least sixty days of community service under the supervision
60 of the court;

61 (4) As an aggravated offender shall not be eligible for parole or probation until he or she
62 has served a minimum of sixty days imprisonment;

63 (5) As a chronic **or habitual** offender shall not be eligible for parole or probation until
64 he or she has served a minimum of two years imprisonment; and

65 (6) Any probation or parole granted under this subsection may include a period of
66 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
67 times per day.

577.013. 1. A person commits the offense of boating while intoxicated if he or she
2 operates a vessel while in an intoxicated condition.

3 2. The offense of boating while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior boating offender; or

7 (b) A person less than seventeen years of age is present in the vessel;

8 (3) A class E felony if:

9 (a) The defendant is a persistent boating offender; or

10 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
11 physical injury to another person;

12 (4) A class D felony if:

13 (a) The defendant is an aggravated boating offender;

14 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to a law enforcement officer or emergency personnel; or

16 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;

18 (5) A class C felony if:

19 (a) The defendant is a chronic boating offender;

20 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or

22 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;

24 (6) A class B felony if:

25 (a) The defendant is a habitual boating offender; or

26 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
27 the death of a law enforcement officer or emergency personnel;

28 (7) A class A felony if the defendant is a habitual offender as a result of being found
29 guilty of an act described under paragraph (d) of subdivision (12) of section 577.001 and is found
30 guilty of a subsequent violation of such paragraph.

31 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
32 of the offense of boating while intoxicated as a first offense shall not be granted a suspended
33 imposition of sentence:

34 (1) Unless such person shall be placed on probation for a minimum of two years; or

35 (2) In a circuit where a DWI court or docket created under section 478.007 or other
36 court-ordered treatment program is available, and where the offense was committed with
37 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
38 the individual participates in and successfully completes a program under such DWI court or
39 docket or other court-ordered treatment program.

40 4. If a person is found guilty of a second or subsequent offense of boating while
41 intoxicated, the court may order the person to submit to a period of continuous alcohol
42 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
43 a condition of probation.

44 5. If a person is not granted a suspended imposition of sentence for the reasons described
45 in subsection 3 of this section:

46 (1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths
47 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
48 shall be not less than forty-eight hours;

49 (2) If the individual operated the vessel with greater than twenty-hundredths of one
50 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
51 not less than five days.

52 6. A person found guilty of the offense of boating while intoxicated:

53 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
54 chronic boating offender or habitual boating offender shall not be granted a suspended
55 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
56 557.011 to the contrary notwithstanding;

57 (2) As a prior boating offender shall not be granted parole or probation until he or she
58 has served a minimum of ten days imprisonment:

59 (a) Unless as a condition of such parole or probation such person performs at least two
60 hundred forty hours of community service under the supervision of the court in those
61 jurisdictions which have a recognized program for community service; or

62 (b) The offender participates in and successfully completes a program established under
63 section 478.007 or other court-ordered treatment program, if available;

64 (3) As a persistent offender shall not be eligible for parole or probation until he or she
65 has served a minimum of thirty days imprisonment:

66 (a) Unless as a condition of such parole or probation such person performs at least four
67 hundred eighty hours of community service under the supervision of the court in those
68 jurisdictions which have a recognized program for community service; or

69 (b) The offender participates in and successfully completes a program established under
70 section 478.007 or other court-ordered treatment program, if available;

71 (4) As an aggravated boating offender shall not be eligible for parole or probation until
72 he or she has served a minimum of sixty days imprisonment;

73 (5) As a chronic **or habitual** boating offender shall not be eligible for parole or
74 probation until he or she has served a minimum of two years imprisonment; and

75 (6) Any probation or parole granted under this subsection may include a period of
76 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
77 times per day.

577.014. 1. A person commits the offense of boating with excessive blood alcohol
2 content if he or she operates a vessel while having eight-hundredths of one percent or more by
3 weight of alcohol in his or her blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes
7 of determining the alcoholic content of a person's blood under this section, the test shall be
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. The offense of boating with excessive blood alcohol content is:

10 (1) A class B misdemeanor;

11 (2) A class A misdemeanor if the defendant is alleged and proved to be a prior boating
12 offender;

13 (3) A class E felony if the defendant is alleged and proved to be a persistent boating
14 offender;

15 (4) A class D felony if the defendant is alleged and proved to be an aggravated boating
16 offender;

17 (5) A class C felony if the defendant is alleged and proved to be a chronic boating
18 offender;

19 (6) A class B felony if the defendant is alleged and proved to be a habitual boating
20 offender.

21 4. A person found guilty of the offense of boating with excessive blood alcohol content
22 as a first offense shall not be granted a suspended imposition of sentence:

23 (1) Unless such person shall be placed on probation for a minimum of two years; or

24 (2) In a circuit where a DWI court or docket created under section 478.007 or other
25 court-ordered treatment program is available, and where the offense was committed with
26 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood unless the
27 individual participates in and successfully completes a program under such DWI court or docket
28 or other court-ordered treatment program.

29 5. When a person is not granted a suspended imposition of sentence for the reasons
30 described in subsection 4 of this section:

31 (1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths
32 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
33 shall be not less than forty-eight hours;

34 (2) If the individual operated the vessel with greater than twenty-hundredths of one
35 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
36 not less than five days.

37 6. If a person is found guilty of a second or subsequent offense of boating with an
38 excessive blood alcohol content, the court may order the person to submit to a period of
39 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
40 times per day as a condition of probation.

41 7. A person found guilty of the offense of boating with excessive blood alcohol content:

42 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
43 chronic boating offender or habitual boating offender shall not be granted a suspended
44 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
45 557.011 to the contrary notwithstanding;

46 (2) As a prior boating offender, shall not be granted parole or probation until he or she
47 has served a minimum of ten days imprisonment:

48 (a) Unless as a condition of such parole or probation such person performs at least two
49 hundred forty hours of community service under the supervision of the court in those
50 jurisdictions which have a recognized program for community service; or

51 (b) The offender participates in and successfully completes a program established under
52 section 478.007 or other court-ordered treatment program, if available;

53 (3) As a persistent boating offender, shall not be granted parole or probation until he or
54 she has served a minimum of thirty days imprisonment:

55 (a) Unless as a condition of such parole or probation such person performs at least four
56 hundred eighty hours of community service under the supervision of the court in those
57 jurisdictions which have a recognized program for community service; or

58 (b) The offender participates in and successfully completes a program established under
59 section 478.007 or other court-ordered treatment program, if available;

60 (4) As an aggravated boating offender, shall not be eligible for parole or probation until
61 he or she has served a minimum of sixty days imprisonment;

62 (5) As a chronic **or habitual** boating offender, shall not be eligible for parole or
63 probation until he or she has served a minimum of two years imprisonment; and

64 (6) Any probation or parole granted under this subsection may include a period of
65 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
66 times per day.

577.037. 1. Upon the trial of any person for any criminal offense or violations of county
2 or municipal ordinances, or in any license suspension or revocation proceeding pursuant to the
3 provisions of chapter 302, arising out of acts alleged to have been committed by any person
4 while operating a vehicle, vessel, or aircraft, or acting as a flight crew member of any aircraft,
5 while in an intoxicated condition or with an excessive blood alcohol content, the amount of
6 alcohol in the person's blood at the time of the act, as shown by any chemical analysis of the
7 person's blood, breath, saliva, or urine, is admissible in evidence and the provisions of
8 subdivision (5) of section 491.060 shall not prevent the admissibility or introduction of such
9 evidence if otherwise admissible.

10 2. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates
11 there was eight-hundredths of one percent or more by weight of alcohol in the person's blood,
12 this shall be prima facie evidence that the person was intoxicated at the time the specimen was
13 taken. If a chemical analysis of the defendant's breath, blood, saliva, or urine demonstrates that
14 there was less than eight-hundredths of one percent of alcohol in the defendant's blood, any
15 charge alleging a criminal offense related to the operation of a vehicle, vessel, or aircraft while
16 in an intoxicated condition [or with an excessive blood alcohol content] shall be dismissed with
17 prejudice unless one or more of the following considerations cause the court to find a dismissal
18 unwarranted:

19 (1) There is evidence that the chemical analysis is unreliable as evidence of the
20 defendant's intoxication at the time of the alleged violation due to the lapse of time between the
21 alleged violation and the obtaining of the specimen;

22 (2) There is evidence that the defendant was under the influence of a controlled
23 substance, or drug, or a combination of either or both with or without alcohol; or

24 (3) There is substantial evidence of intoxication from physical observations of witnesses
25 or admissions of the defendant.

26 3. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
27 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

28 4. The foregoing provisions of this section shall not be construed as limiting the
29 introduction of any other competent evidence bearing upon the question of whether the person
30 was intoxicated.

31 5. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise
32 to the presumption or to have the effect provided for in subsection 2 of this section, shall have
33 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and
34 standards approved by the state department of health and senior services.

 577.060. 1. A person commits the offense of leaving the scene of an accident when:

2 (1) Being the operator of a vehicle or a vessel involved in an accident resulting in injury
3 or death or damage to property of another person; and

4 (2) Having knowledge of such accident he or she leaves the place of the injury, damage
5 or accident without stopping and giving the following information to the other party or to a law
6 enforcement officer, or if no law enforcement officer is in the vicinity, then to the nearest law
7 enforcement agency:

8 (a) His or her name;

9 (b) His or her residence, including city and street number;

10 (c) The registration or license number for his or her vehicle or vessel; and

11 (d) His or her operator's license number, if any.

12 2. For the purposes of this section, all law enforcement officers shall have jurisdiction,
13 when invited by an injured person, to enter the premises of any privately owned property for the
14 purpose of investigating an accident and performing all necessary duties regarding such accident.

15 3. The offense of leaving the scene of an accident is:

16 (1) A class A misdemeanor; or

17 (2) A class E felony if:

18 (a) Physical injury was caused to another party; or

19 (b) Damage in excess of one thousand dollars was caused to the property of another
20 person; or

21 (c) The defendant has previously been found guilty of any offense **in violation of this**
22 **section; or** committed in another jurisdiction which, if committed in this state, would be a
23 violation of an offense [in] **of** this section.

24 4. A law enforcement officer who investigates or receives information of an accident
25 involving an all-terrain vehicle and also involving the loss of life or serious physical injury shall
26 make a written report of the investigation or information received and such additional facts
27 relating to the accident as may come to his or her knowledge, mail the information to the
28 department of public safety, and keep a record thereof in his or her office.

29 5. The provisions of this section shall not apply to the operation of all-terrain vehicles
30 when property damage is sustained in sanctioned all-terrain vehicle races, derbies and rallies.

578.007. The provisions of **section 574.130**, sections 578.005 to 578.023 shall not apply
2 to:

3 (1) Care or treatment performed by a licensed veterinarian within the provisions of
4 chapter 340;

5 (2) Bona fide scientific experiments;

6 (3) Hunting, fishing, or trapping as allowed by chapter 252, including all practices and
7 privileges as allowed under the Missouri Wildlife Code;

8 (4) Facilities and publicly funded zoological parks currently in compliance with the
9 federal "Animal Welfare Act" as amended;

10 (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy's Association;

11 (6) The killing of an animal by the owner thereof, the agent of such owner, or by a
12 veterinarian at the request of the owner thereof;

13 (7) The lawful, humane killing of an animal by an animal control officer, the operator
14 of an animal shelter, a veterinarian, or law enforcement or health official;

15 (8) With respect to farm animals, normal or accepted practices of animal husbandry;

16 (9) The killing of an animal by any person at any time if such animal is outside of the
17 owned or rented property of the owner or custodian of such animal and the animal is injuring any
18 person or farm animal but shall not include police or guard dogs while working;

19 (10) The killing of house or garden pests; or

20 (11) Field trials, training and hunting practices as accepted by the Professional
21 Houndsmen of Missouri.

579.015. 1. A person commits the offense of possession of a controlled substance if he
2 or she knowingly possesses a controlled substance, except as authorized by this chapter or
3 chapter 195.

4 2. The offense of possession of any controlled substance except thirty-five grams or less
5 of marijuana or any synthetic cannabinoid is a class D felony.

6 3. The offense of possession of more than ten grams but **thirty-five grams or less** [than
7 thirty-six grams] of marijuana or any synthetic cannabinoid is a class A misdemeanor.

8 4. The offense of possession of not more than ten grams of marijuana or any synthetic
9 cannabinoid is a class D misdemeanor. If the defendant has previously been found guilty of any
10 offense of the laws related to controlled substances of this state, or of the United States, or any
11 state, territory, or district, the offense is a class A misdemeanor. Prior findings of guilt shall be
12 pleaded and proven in the same manner as required by section 558.021.

13 5. In any complaint, information, or indictment, and in any action or proceeding brought
14 for the enforcement of any provision of this chapter or chapter 195, it shall not be necessary to
15 include any exception, excuse, proviso, or exemption contained in this chapter or chapter 195,
16 and the burden of proof of any such exception, excuse, proviso or exemption shall be upon the
17 defendant.

632.520. 1. For purposes of this section, the following terms mean:

2 (1) "Employee of the department of mental health", a person who is an employee of the
3 department of mental health, an employee or contracted employee of a subcontractor of the
4 department of mental health, or an employee or contracted employee of a subcontractor of an
5 entity responsible for confining offenders as authorized by section 632.495;

6 (2) "Offender", a person ordered to the department of mental health after a determination
7 by the court that the person meets the definition of a sexually violent predator, a person ordered
8 to the department of mental health after a finding of probable cause under section 632.489, or
9 a person committed for control, care, and treatment by the department of mental health under
10 sections 632.480 to 632.513;

11 (3) "Secure facility", a facility operated by the department of mental health or an entity
12 responsible for confining offenders as authorized by section 632.495.

13 2. No offender shall knowingly commit violence to an employee of the department of
14 mental health or to another offender housed in a secure facility. Violation of this subsection shall
15 be a class B felony.

16 3. No offender shall knowingly damage any building or other property owned or operated
17 by the department of mental health. Violation of this subsection shall be a class [C] **D** felony.

Section B. The repeal and reenactment of sections 192.2260, 301.559, 339.100, 400.9-
2 501, 565.032, 571.020, 571.060, 571.063, 571.070, 571.072, and 632.520, and the repeal and
3 reenactment of the first occurrence of section 563.046 of this act shall become effective on
4 January 1, 2017.

Section C. Because of the need to clarify Missouri's deadly force statute to align with
2 supreme court precedent, the repeal and reenactment of the second occurrence of section 563.046
3 of this act is deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of the second occurrence of section 563.046 of this
6 act shall be in full force and effect upon its passage and approval.

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